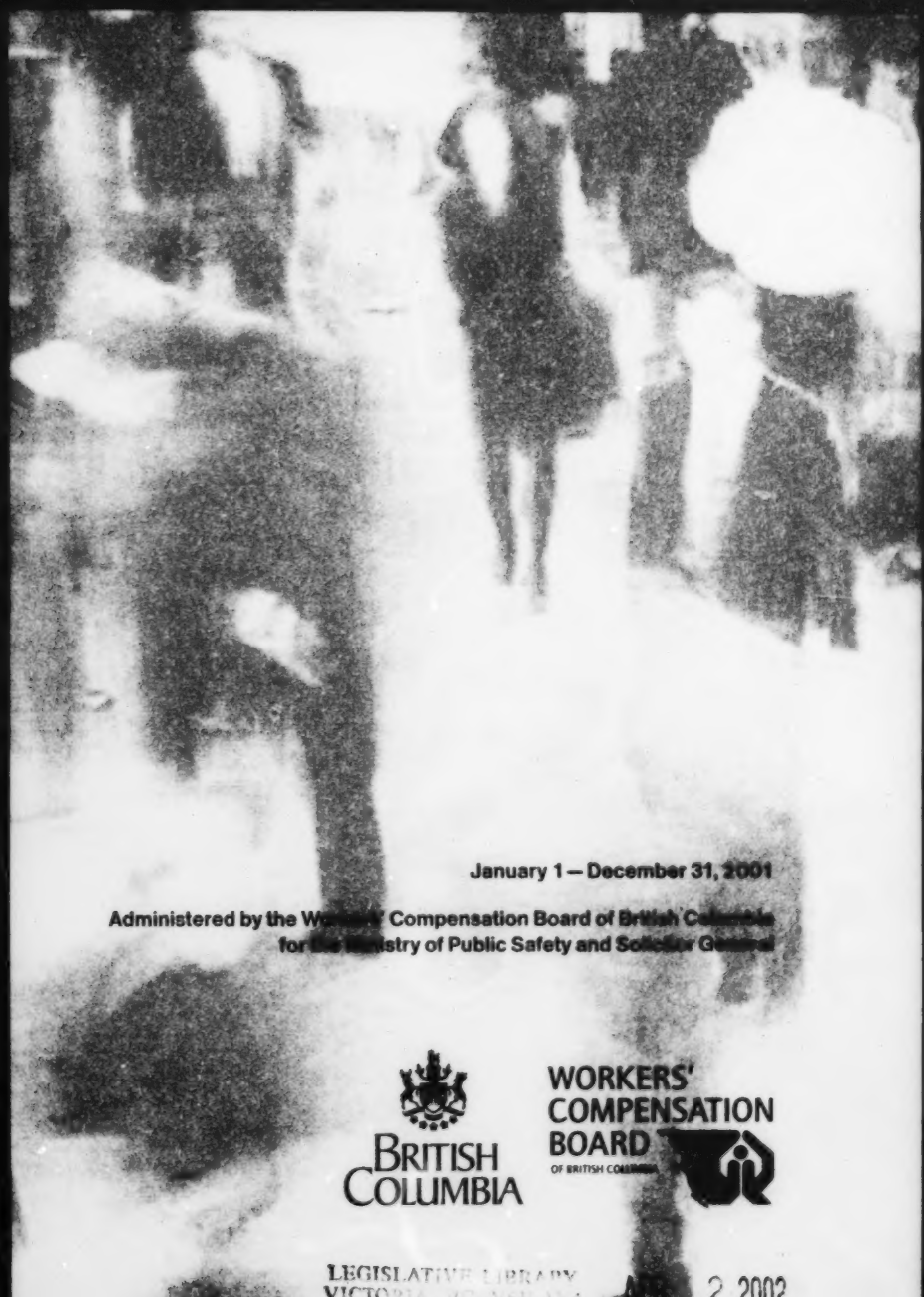
Criminal Injury Compensation Program

Report 2001



January 1 – December 31, 2001

Administered by the Workers' Compensation Board of British Columbia
for the Ministry of Public Safety and Solicitor General

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OF BRITISH COLUMBIA

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Mission statement

Our society has a responsibility to assist innocent victims of crime. The Criminal Injury Compensation Program (CICP) represents an acceptance of society's obligation to help those harmed by crime and serves to recognize the wrong done to victims by easing their financial hardship.

Goals for 2002

Until the new Crime Victim Assistance Program is operational, the Workers' Compensation Board will continue to administer the Criminal Injury Compensation Program, and the CICP will continue to provide timely and quality adjudication for victims of crime.

In 2002, the Criminal Injury Compensation Program will work closely and co-operatively with the Ministry of Public Safety and Solicitor General in order to ensure a smooth transition to the new victim assistance program.

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Services for victims to continue through transition

Under the jurisdiction of the Ministry of Attorney General, the Workers' Compensation Board has administered the Criminal Injury Compensation Program (CICP) since 1972, when the *Criminal Injury Compensation Act* was passed. The CICP acknowledges the harm done to victims of crime by providing monetary awards to help ease their financial hardship and other benefits to help them heal from physical injury and psychological trauma.

Adjudicating claims and awarding compensation to victims of crime is a complex responsibility that requires a balance of compassion and discernment. Although the eligibility criteria and types of claims have changed significantly over the years, the CICP has continued to provide service that is sensitive and responsive to the changing needs of victims.

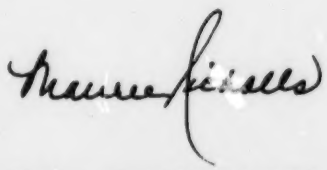
This report describes the categories of benefits provided to victims of crime, which include pain and suffering, medical aid, loss of support to dependants, loss of love and guidance, wage loss, vocational expenses, funeral and burial costs, counselling, and child maintenance. The case studies provide a glimpse into the very real human tragedies underlying this important program.

Approximately 4,700 victims of crime received benefits in 2001. Approximately 27 percent of those awards went to victims of sexual assault and abuse. Another noteworthy statistic is that the majority of all awards go to victims of crimes of violence.

On August 27, 2001, the B.C. government passed Bill 24, the *Crime Victim Assistance Act*, which will replace the *Criminal Injury Compensation Act*. The new Crime Victim Assistance Program will be administered through the Victim Services Division of the Ministry of Public Safety and Solicitor General. The legislation will not come into effect immediately, however, which means we are entering a period of transition in the administration of victim services.

Until the new program is up and running, the CICP will continue to receive applications for compensation and to administer services to victims already registered with the program. The Criminal Injury Compensation Program is committed to working diligently and co-operatively with the Ministry of Public Safety and Solicitor General to ensure a smooth and successful transition of services.

I would like to thank the CICP staff for their ongoing diligence and dedication in administering this valuable program. During the transition ahead, the CICP will not waver from its commitment to provide fair, compassionate, and efficient service to victims of crime.



Agency responsible for administering the Act.

Maureen Nicholls,
Chair, WCB Panel of Administrators

"Our new crime victim assistance program is aimed at ensuring faster access to improved support services that help not only the victim but also their caregivers, children and spouses."

— Rich Coleman, Solicitor General (News Release, August 21, 2001)

The Criminal Injury Compensation Program provides financial assistance to victims who have been injured as the result of a violent crime. The Workers' Compensation Board has administered the program since it was established in 1972. This report highlights the program's activities of the past year.

In response to the changing needs of victims, the program will undergo significant changes in 2002. When the program was first initiated, many victims were concerned about wage loss that occurred as the result of a crime. Today, many victims require counselling and protective services to aid recovery and prevent re-victimization.

The new *Crime Victim Assistance Act* will replace the *Criminal Injury Compensation Act*, and will be administered within the Ministry of Public Safety and Solicitor General rather than the Workers' Compensation Board. This will mean a more centralized victim service response, and a seamless delivery of services that takes advantage of specialized knowledge and expertise within the Ministry.

The Crime Victim Assistance Program fits within the Ministry's overall strategy of creating safer communities. The program will provide assistance to victims of violent crime to aid in their recovery and ongoing security, so that they may participate fully and safely in their communities.

We look forward to having the program as part of the Ministry of Public Safety and Solicitor General.

R.T. (Rich) Coleman
Solicitor General

For 30 years, the Criminal Injury Compensation Program (CICP) has processed and adjudicated thousands of claims, fairly and compassionately carrying out society's obligation to help those harmed by crime.

In awarding compensation to victims of crime, the Criminal Injury Compensation Program does not try to redress the wrong done by granting large sums of money. Instead, the aim is to acknowledge the harm done to victims and to lighten their financial burden. Criminal injury compensation includes medical and dental care, funeral expenses, lost income, counselling, and rehabilitation.

Victims eligible for compensation meet one of the following criteria:

- Were injured by any of 56 criminal offences covered by the *Criminal Injury Compensation Act*
- Were financially supported by someone killed by a crime
- Are an immediate, non-dependent family member of someone killed by a crime
- Were injured while helping a law enforcement officer or trying to stop a crime from occurring
- Were injured on the job as a result of any one of the criminal offences outlined in the Act

Over the years, the *Criminal Injury Compensation Act* has been amended in ways that have expanded the criteria by which people could be awarded compensation. For instance, in 1995, the crimes of uttering threats and harassment were added. In that same year, two new victim groups were added:

- Immediate family members, not just dependants, of victims killed by a crime
- Workers injured by a crime while on the job

These changes highlight the evolving nature of criminal injury compensation. They also underscore the desire of the CICP to recognize and respond to the changing attitudes and priorities within our society.

In most cases, coverage extends from the date a crime is added to the Act's schedule. However, the amendments relating to claims made by non-dependent immediate family members, on account of a fatal injury, are retroactive to January 1, 1991, even though the amendment was added to the legislation in 1995.

The CICP has the difficult task of balancing compassion and the statutory provisions of the *Criminal Injury Compensation Act*, which defines both what we can and cannot compensate for. Victims of crime apply for compensation at what is often the most traumatic time of their lives, and for some this assistance must be denied. Thoughtful and caring service to all clients has always been integral to the program.

The Workers' Compensation Board (WCB) administers the CICP because it has the major resources to process applications and significant expertise in compensation. Compensation is paid from the Consolidated Revenue Fund of British Columbia.

Application forms are available at any WCB office in British Columbia, or by calling 604 244-6400, toll-free in B.C. at 1 800 449-5331.

Examples of allowed claims

Shaken baby syndrome

Incident: An application was made on behalf of a 14-month-old child who was shaken by his daycare provider.

Claim and assessment: The child suffered subdural hematomas in the bifrontal and occipital areas of the brain as well as retinal hemorrhage in the right eye.

Two extensive surgeries were required. A brain injury and bilateral blindness remain. Chances of any recovery may not be known for a number of years.

Award: $25,000.00 for pain and suffering, $85.49 for a thermoscan, $284.98 for a special stroller, and $302.06 to purchase video monitor equipment. Provision was made for a review of the claim in the future, in the event of new medical information. Following repeal of the *Criminal Injury Compensation Act*, this review will take place under the *Crime Victim Assistance Act*.

Claim of an immediate family member

Incident: A man applied for compensation as an immediate family member, following the murder of his son. The circumstances of the death were extremely violent, and the victim's father suffered severe anxiety and clinical depression that persisted for many months.

Claim and assessment: The applicant's family doctor confirmed that due to severe anxiety, depression, and prolonged grief he required ongoing medication. He was unable to work for six months, and then worked reduced hours for a further period of time.

Award: $15,000.00 for loss of wages, plus $6,492.41 for funeral and related expenses.

Shooting results in permanent disability

Incident: A man was shot in the right arm in 1973.

Claim and assessment: The victim had no feeling in his right arm and his hand and fingers remained in a clawed position. He was assessed a Permanent Functional Impairment pension in 1975 of $200.00 per month and provided with retraining. In 2001 he advised that he had been unable to obtain stable employment. His doctor confirmed that he was not capable of gainful employment.

Award: $49,074.33 for pain, suffering, and disability, plus an increase in the Permanent Functional Impairment pension to $1,003.13 payable monthly for life.

Anxiety attacks following physical assault

Incident: A 49-year-old man was involved in a property dispute during which a man pushed him backward with both hands in the chest and threatened to kill him.

Claim and assessment: The victim suffered from insomnia marked by anxiety attacks, during which he experienced heart palpitations, shortness of breath, and nausea.

Award: $1,000.00 for pain and suffering, $10.60 for anti-anxiety medication, and provision for 12 counselling sessions.

Attack by gang members

Incident: A 22-year-old man was attacked with an unknown weapon by several men believed to be gang members.

Claim and assessment: The victim suffered stab wounds to the posterior chest and flank, and multiple blows to the head resulting in a hemopneumothorax. There was considerable blood loss.

Award: $2,500.00 for pain and suffering and provision for 12 counselling sessions.

Injured while restraining suspect

Incident: A 53-year-old man was injured while helping restrain a woman after she had allegedly stolen a purse.

Claim and assessment: The victim suffered a sprain and chip fracture of the left thumb, with development of mild arthritis. He underwent surgery after which pain in the area gradually improved.

Award: $2,600.00 for pain and suffering, plus $27.98 for a splint.

Robbery after car rear-ended

Incident: The car a 30-year-old woman was driving was deliberately rammed from behind by two men in another vehicle. When the woman got out of her car to check the damage, one man grabbed her purse and attacked her while the other pushed her to the ground.

Claim and assessment: The victim suffered multiple bruises to both shoulders and arms, left wrist, and low back. She was treated with medication and massage therapy.

Award: $2,000.00 for pain and suffering, plus $575.00 for loss of wages.

Attack during home invasion

Incident: A 33-year-old man was beaten during a home invasion, while his common-law wife was held as a hostage.

Claim and assessment: The victim suffered multiple bruises and abrasions, causing swelling of the head, face, and neck. He experienced a probable mild concussion and acute anxiety.

Award: $2,400.00 for pain and suffering.

Abducted by two armed men

Incident: While sitting in his car, a 50-year-old man was confronted by two men armed with a handgun who abducted him, struck him on the head, and then forced him under threat of death to withdraw cash from his bank account.

Claim and assessment: The victim suffered multiple bruises to the head, severe shoulder and back pain, and extreme anxiety.

Award: $2,500.00 for pain and suffering and provision for 12 counselling sessions.

Multiple sexual abuse incidents

Incident: An application was made on behalf of a 10-year-old girl in relation to repeated incidents of sexual abuse by her step-grandfather.

Claim and assessment: The victim suffered severe mental and emotional trauma.

Award: $3,800.00 for pain and suffering and provision for 24 counselling sessions.

Assault and robbery of a taxi driver

Incident: While driving his taxi, a 51-year-old man was punched repeatedly in the face by a male passenger who then robbed him.

Claim and assessment: The victim suffered multiple bruises and abrasions to his face and eyes, resulting in a nasal fracture and swelling. He experienced acute anxiety and was later diagnosed with post-traumatic stress disorder.

Award: $2,450.00 for pain and suffering. (When someone is criminally injured on the job, compensation is payable only for pain and suffering as they also have entitlement to WCB benefits.)

Loss of an eye

Incident: A man was dealt a severe blow to his left eye.

Claim and assessment: The victim suffered a rupture in the choroid through the centre of the eye, resulting in significant and irreversible vision loss. While able to resume normal physical activity, the victim had to adapt to monocular vision.

Award: $10,000.00 for pain and suffering.

Injured in fall after being tripped

Incident: While running on the street for exercise, a 51-year-old man was deliberately tripped by an unknown man and was injured from the fall.

Claim and assessment: The victim suffered a hairline fracture and displacement of the distal third shaft of the right clavicle. He experienced intense pain, both physically and emotionally, and has been left with a fracture deformity of the right clavicle.

Award: $6,000.00 for pain and suffering, $376.92 for loss of wages, $248.90 for acupuncture and medication, $572.00 for personal and home care, $49.00 for travel expenses, $16.00 for an arm splint, and $43.00 for a neck strap.

Victim of criminal harassment

Incident: A 41-year-old woman was repeatedly followed, watched, telephoned, confronted, and verbally threatened by her former boyfriend.

Claim and assessment: The victim was emotionally traumatized.

Award: $1,500.00 for pain and suffering and provision for 12 counselling sessions.

Years of sexual abuse

Incident: A 32-year-old woman applied for compensation in relation to multiple incidents of sexual abuse between 1974 and 1979.

Claim and assessment: The victim suffered severe mental and emotional trauma.

Award: $15,000.00 for pain and suffering. Provision was made for 24 counselling sessions, and for the therapy to be extended if needed.

Assault by co-worker

Incident: A 50-year-old man was involved in a non-work-related altercation with a co-worker at their place of employment. Afterwards, the victim entered the washroom to clean up. The assailant followed him and struck him several times with a hammer.

Claim and assessment: The victim required surgery after suffering a bilateral parietal skull fracture resulting in a temporal brain contusion. He also suffered multiple scalp, neck, and facial lacerations, some of which required sutures. The victim made a good recovery but continued to experience left-sided tinnitus and deafness in the left ear.

Award: $5,000.00 for pain and suffering, plus $100.00 for damage to clothing.

Thrown from a balcony

Incident: A 45-year-old woman was attacked by her roommate, who threw her from a second-storey balcony of their apartment building.

Claim and assessment: The victim suffered a fractured right calcaneus, fractures of the left superior and inferior pubic rami and the right superior pubic ramus, and multiple bruises and abrasions.

Award: $5,000.00 for pain and suffering, $969.00 for loss of wages, and $99.03 for medication.

Child struck by pellet

Incident: An application was made on behalf of a 4-year-old boy who was struck by a pellet fired from a pellet gun by an unknown person. Police were unable to determine whether the incident was accidental or intentional. The Criminal Injury Compensation Program concluded, on a balance of probabilities, that criminal negligence resulted in bodily harm to the victim.

Claim and assessment: The victim suffered a wound to his right cheek and emotional trauma.

Award: $1,500.00 for pain and suffering, plus $11.60 in transportation costs.

Attempted kissing of child

Incident: A 22-year-old man applied for compensation in relation to an incident that occurred when he was 10 or 11, during which his adult cousin attempted to kiss him. The offender was convicted of sexual assault in relation to this and other similar events.

Claim and assessment: The victim was not physically injured but suffered mental and emotional trauma. No medical or counselling treatment was sought at any time.

Award: $250.00 for pain and suffering and provision for 12 counselling sessions.

Male victim of spousal abuse

Incident: A 40-year-old man was physically assaulted and punched in the face by his estranged wife, who also left threatening messages on his answering machine following the attack.

Claim and assessment: The victim suffered dental damage and required a partial denture.

Award: $450.00 for pain and suffering, plus $45.00 for damage to clothing.

Fire set by arsonist

Incident: A 48-year-old man was injured due to a fire that had been deliberately set at his home.

Claim and assessment: The victim suffered significant burns to both hands and feet and required ongoing treatment at the Burn Clinic for several months. He had to wear compression gloves and stockings and saw a psychiatrist because of emotional trauma.

Award: $5,000.00 for pain and suffering, $1,496.86 for loss of wages, $90.00 for damage to clothing, and $10.80 in ambulance expense.

Examples of disallowed claims

Contribution by violent behaviour

Incident: A 25-year-old man alleged that he was physically assaulted by a doorman at a bar. The police determined that the doorman was physically ejecting the intoxicated man when the applicant kicked the doorman in the head. The doorman then punched him in the mouth. The applicant refused to speak with the police or proceed with criminal charges.

Assessment: The applicant had, by his own behaviour, contributed substantially toward the circumstances in which he was injured and had in fact initiated the altercation by striking the doorman. His contribution made him ineligible for an award of compensation.

Drug-related shooting

Incident: A 29-year-old woman sought compensation for injuries sustained when a shotgun went off during a struggle between her boyfriend and another man. The applicant and her boyfriend had gone to the scene to purchase crack cocaine. All parties involved refused to co-operate in a police investigation.

Assessment: A police investigation determined that the applicant and her boyfriend were participating in illegal activity by attempting to buy illicit drugs. The location of the incident was known for drug-related activities and the applicant's boyfriend was heavily involved in trafficking of cocaine and heroin. The applicant's contribution to her injury, by her participation in the illicit drug trade, disentitled her to any award of compensation.

Unreliable witness

Incident: A 38-year-old man alleged that he was physically assaulted by a neighbour and his cousin. The police found the applicant to be in a highly intoxicated state. When asked to identify the neighbour who allegedly assaulted him, he was unable to do so. Later, the applicant alleged that he could not remember any of the events of the evening and stated that he had no idea with whom he had been fighting.

Assessment: While an alleged offender need not be charged or convicted prior to compensation being paid, there must be sufficient information on which to conclude, on a balance of probabilities, that a crime occurred. The applicant's evidence alone was unreliable given his advanced state of intoxication and lack of memory. It was considered to be equally probable that he had been injured while participating in a consensual fight.

Alleged sexual assault

Incident: A 54-year-old woman alleged that while hospitalized in 1973 a male nurse or orderly sexually assaulted her by touching her under her hospital gown. The alleged event was not reported to the police at the time. While a report was later made to a social worker, she apparently did not believe the applicant.

Assessment: The applicant does not recall the name of the alleged offender, and due to the passage of time and lack of evidence, no police investigation was undertaken. Hospital authorities state that any records of the incident would now have been destroyed, as they need only to retain their records for a limited period of time. There was determined to be insufficient evidence to satisfy the burden of proof under the *Criminal Injury Compensation Act* that criminal victimization had occurred.

Two versions of same event

Incident: A 33-year-old woman alleged to have been assaulted by her former common-law spouse, who accosted her at her front door and pushed, punched, and kicked her. She alleged to have suffered a broken collarbone. At a criminal trial of the accused, the applicant was found to be not credible.

Assessment: The evidence at trial points to there being two different versions of this alleged event. The accused testified that the applicant had attacked him at the front door by punching him. There was insufficient information to determine which version was more credible, and there was insufficient information to conclude that the applicant was a victim of crime.

Time limitation not extended

Incident: A 28-year-old man alleged that he was assaulted by a fellow inmate or inmates with a wooden club. The applicant did not apply for criminal injury compensation until months after the one-year time limitation. In his written explanation for the delay in applying, he admitted that he was aware of the availability of compensation because of a prior claim, which had been denied. The applicant alleged that he had contacted a lawyer who advised that he would take care of the applicant's case back in February 1999. He previously had alleged that the lawyer said nothing to the applicant about criminal injury compensation and therefore he did not know that it existed.

Assessment: There was very little information as to the manner and circumstances in which the applicant became injured. In addition, it was apparent that he was not being truthful in denying awareness of the existence of criminal injury compensation. The time limitation of one year was not extended and the claim was refused on the basis that his explanation for the delay in applying was not satisfactory.

Applicant not the victim

Incident: A 16-year-old girl applied with respect to an incident in which her father had telephoned her mother and made threats toward her.

Assessment: The Criminal Injury Compensation Program can provide benefits to victims of any of the 56 Criminal Code offences listed in the Schedule under the Act. While the crime of uttering threats is included in the Schedule, in this case the recipient and victim was the applicant's mother and not the applicant herself. While the applicant had taken the phone call, it could not be concluded that the crime was committed against her and therefore benefits were not payable.

Not a scheduled offence

Incident: A 37-year-old woman applied with respect to an incident occurring when she and her boyfriend were terminating their relationship. In anger, her boyfriend slammed his fist into her truck and smashed her windshield.

Assessment: While the offender had committed the crime of mischief to property, the Criminal Injury Compensation Program only has jurisdiction to provide benefits to an applicant injured as the result of the commission of an offence listed in the Schedule under the Act. Mischief to property is not one of these offences. Accordingly, no compensation could be provided in this case.

Lack of co-operation with police

Incident: A 27-year-old man alleged that while walking home from a bar he was attacked and physically assaulted by three men who demanded money. The applicant refused to explain to the police what had happened other than to say he was "set up."

Assessment: The applicant was provided with a case number should he wish to discuss the matter further with the police. As he did not contact them their file was concluded. The resulting lack of investigation has produced a lack of information to confirm the manner in which this alleged incident took place. Accordingly, there was insufficient evidence on which to accept the claim.

Road rage incident

Incident: A 46-year-old motorist alleged that after a confrontation with another driver he was dragged and then thrown to the ground. According to witnesses, and later admitted to by the applicant, the applicant had been following closely behind the vehicle in question, while the driver of this vehicle was continually applying the brakes. A confrontation subsequently occurred in which the applicant ran up to the other vehicle yelling and gesturing wildly.

Assessment: Police and witness information confirm that the applicant was the author of his own misfortune with respect to the event. He had contributed toward his own eventual injury to such an extensive degree as to disentitle him to an award of compensation.

Consensual fight

Incident: A 21-year-old man alleged that he was stabbed with a knife by an unknown assailant. While the suspect was not identified, there was evidence that the applicant had initiated the altercation in which he alleged that he had pretended to have possession of a knife.

Assessment: The applicant was noted to have a criminal history involving weapons, including criminal convictions for carrying a concealed weapon and aggravated assault with a weapon. Since the application, he was arrested on two additional occasions for weapons offences. It was concluded that the incident for which compensation was requested involved a consensual fight in which the applicant was armed with a knife. He was not entitled to compensation.

Immediate family member claim prior to January 1, 1991

Incident: Application was made on behalf of a 13-year-old child in relation to the disappearance of her sibling in August 1989. The missing person is believed to have been a victim of criminal foul play that resulted in her death.

Assessment: The *Criminal Injury Compensation Act* was amended in 1995, retroactive to January 1, 1991, to allow immediate family members of a deceased victim of crime to apply for compensation. Prior to January 1, 1991, an individual had to be a dependant of the deceased in order to receive compensation. The amendments to the Act do not apply to events occurring prior to January 1, 1991, and it could not be concluded that the applicant was a dependant of the deceased. There was no jurisdiction, accordingly, to provide compensation in the circumstances of this case.

Applicant convicted of offence

Incident: A man alleged that he had been physically assaulted by police officers while he was placed under arrest. The applicant was arrested due to his own violent and aggressive behaviour toward an undercover police officer.

Assessment: The applicant states that he was not charged with assault but admitted that he was later convicted of causing a disturbance in relation to the incident. His own criminal behaviour initiated the entire event in which he was injured. No more force than was necessary in the circumstances was applied in placing him under arrest. There was no basis on which to grant an award of criminal injury compensation.

False complaint

Incident: A 24-year-old woman alleged she had been sexually assaulted by an unknown man. A subsequent police investigation determined that the applicant's statement was "clearly deceptive" and false.

Assessment: Compensation was not payable in view of the obviously false story the applicant presented.

Changes to policy manual

The Criminal Injury Compensation Program is committed to compensating victims of crime in a fair and consistent manner, and to making its services accessible to the people who use them.

That is why the CICP, in consultation with stakeholders, has been refining and enhancing its policy manual since 1998. A second draft of this updated policy manual, incorporating a number of changes to policy, practice, and procedure, was completed in June 2001. The new draft has not been circulated due to the changes proposed to the CICP.

Accessible and accountable

The CICP continually strives to be accessible, open, and accountable to victims of crime and all others involved. When victims are not available to attend CICP offices, inquiries are conducted by telephone. And for people living on Vancouver Island, the CICP schedules oral inquiries in Victoria and Nanaimo.

The CICP is responsive and flexible. The program reaches out to the public and presents information sessions to victims' assistance groups and other organizations. Management structure is streamlined to promote easier liaison with stakeholders. The CICP changes process and adjudicative practices to reflect appeal decisions.

Review process

If an applicant wishes further consideration of a decision made on an application, he or she can request a review. The review procedure is more informal and flexible than the appeal process, and may include an oral inquiry or a review of documents.

An applicant may have new information that was not previously available, or may want the adjudicator to review certain aspects of the case. Adjudicators may, in turn, request more information, such as current medical records.

One of three outcomes is possible for those applicants who participate in a review. The adjudicator will make a decision that that will either uphold, modify, or reverse the original one.

The primary intent of the CICP is to assist victims of crime. Therefore, any modification or reversal of the original decision is considered a positive outcome. The CICP encourages applicants to request a review or inquiry and, if necessary after the review, to launch an appeal. In this way, the CICP makes certain that applications for criminal injury compensation receive the most thorough consideration possible.

Appeal process

The avenue of appeal is always available if an applicant is dissatisfied with the outcome of a review or inquiry. It is important to note that the review process is not a prerequisite. Applicants may appeal to an Appeal Committee immediately after the initial decision on their case.

An Appeal Committee hearing may be held as an oral hearing, a review of documents, or both, with up to three committee members in attendance. If the Appeal Committee finds merit in the evidence, it may overturn the decision or request another review.

If still not satisfied, the applicant may request that his or her application be considered by the Appeal Division of the WCB. If the request to hear the case is denied, the appeal process ends, subject to reconsideration by the Appeal Division, as provided by the *Criminal Injury Compensation Act*.

Appeal Committee

Historically, the Workers' Compensation Review Board has provided members to make up Appeal Committees under the CICP. In 2000, the Review Board determined it could no longer provide that resource. Since December 2000, the CICP has had two experienced Appeal Committee members who perform this important aspect of the program on a permanent basis. While maintaining the independence of the Appeal Committee, the CICP has reduced its costs by one-third. The benefits of this arrangement include consistent quality of Appeal Committee decisions, centralized service for victims of crime, and improved flow of communication for all stakeholders.

Web site

Service has been improved through the use of a CICP web site (www.criminalinjury.bc.ca), which provides general information on the program in an easy-to-read format. Site users can also view and print copies of CICP publications and application forms.

Staff operations

Applications for compensation are often complex, and many people who approach the CICP for help have suffered trauma and are in crisis. The staff of the CICP are dedicated to treating victims with respect and sensitivity, while providing timely, accurate service.

The CICP staff consists of two managers, two consulting psychologists, one medical doctor, two investigators, one senior counsel, five adjudicators, and 36 support staff. CICP staff have a broad range of skills and training, and are able to draw on the resources of the Workers' Compensation Board to assist them in their work.

Before the *Criminal Injury Compensation Act* was passed, the trauma suffered by victims of crime and their families was not widely recognized in B.C. Today, based on feedback from applicants, victims see compensation not only as a way to get back on track financially, but also as an acknowledgment of their suffering. People experience the support they receive as an important part of their healing process.

The kinds of crimes and the profile of applicants the program covers differ significantly from those covered when the program was created. The most recent offences to be included, criminal harassment (stalking) and uttering threats, were added in 1995. Today's claims reflect the sad reality that women and children combined make up 65 percent of applicants – many of them victims of sexual assault and abuse. This differs substantially from years ago, when the majority of applicants were adult men.

Who is eligible for compensation?

Under certain circumstances, anyone who has been injured as a result of a crime or is the immediate family member of a person killed due to a crime may be entitled to compensation. In addition, a person injured while helping a law enforcement officer or trying to prevent a crime may be eligible.

The *Criminal Injury Compensation Act* sets out circumstances in which compensation cannot be awarded. The Act does not provide for people who are not innocent victims and are responsible for the crime causing the injury. It also does not cover for injuries sustained outside B.C. or as a result of a motor vehicle accident.

Applying for compensation

Initial contact usually occurs when a victim is referred by the police, victims-of-crime support groups, or hospital staff. Before applying for compensation, a victim should report the incident to the police. However, to qualify for compensation, it is not essential that the Crown approve charges or that the offender be convicted. In fact, the offender may never be identified, making the program particularly beneficial to victims of random acts of violence. The services of a lawyer are also not required to apply for criminal injury compensation. Victims may, however, retain a lawyer at any time to assist them.

Applicants must apply for compensation within one year of the injury or death. This time limit may, under certain circumstances, be extended.

The adjudication process

Most of the information required by the CICP is requested on the application form. Applicants will also be asked to provide original bills or receipts for expenses, the name of their employer, and details of other benefits claimed. The more detail the applicant provides the CICP, the more quickly the application can be processed.

CICP staff will obtain the police report. Applicants may be asked to attend an interview with an investigator, and may be examined by a physician or consulting psychologist.

While considering a claim, the CICP may receive relevant information from several sources, including the police, hospitals, employers, therapists, psychiatrists, and Human Resources Development Canada regarding employment insurance. If disclosure of information is requested, it will only be made according to law or in compliance with orders of a court or tribunal.

Types of payment

Compensation can be paid to an applicant in one of three ways:

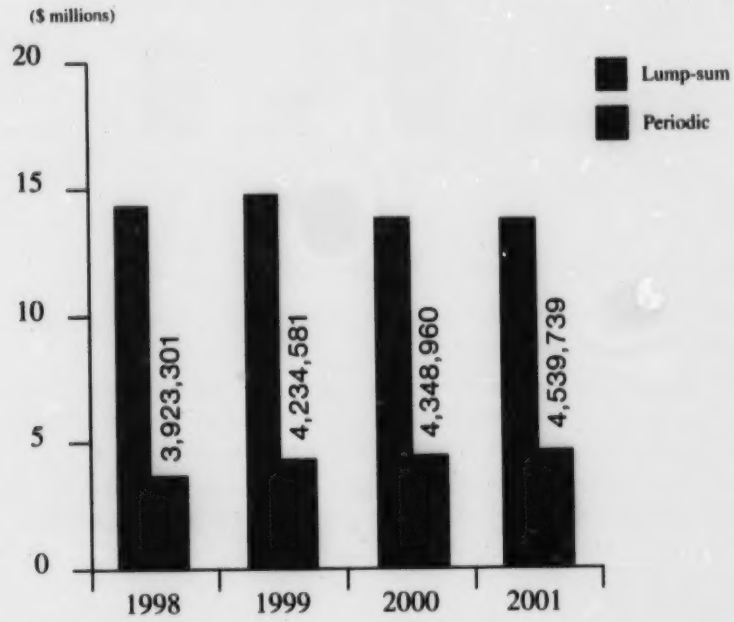
1. Lump-sum payment
2. Periodic payments
3. Combination of lump-sum and periodic payments

Awards for expenses such as funerals, replacing damaged clothes and eyeglasses, counselling, medical and dental treatments, and pain and suffering are usually paid in a lump sum. Periodic payments can be made to a victim with a permanent disability, or to the dependants of a victim who has been killed.

The maximum lump-sum payment that can be awarded for injury or death is $50,000. When an injury has caused permanent or temporary disability, the Act sets a limit on the amount of periodic payments.

No compensation is awarded for claims under $100.

Awards shown by type of payment



Where an applicant is in dire financial need and it is probable the CICP will award compensation, interim payments can be made. These emergency payments are limited to medical, dental, counselling, and wage-loss expenses. The interim payment is deducted from the final award.

The CICP recognizes that for victims and their families to recover from the trauma of their injuries or loss, they must heal physically and emotionally. Counselling plays an important role in that healing and may be provided for a victim's recovery or for family members of deceased victims. The consulting psychologists on the CICP staff help assess the type of counselling needed.

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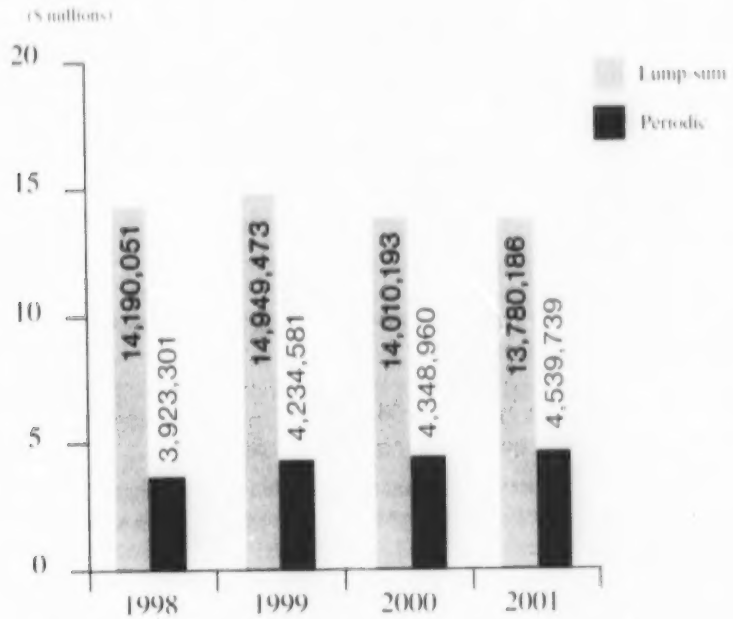

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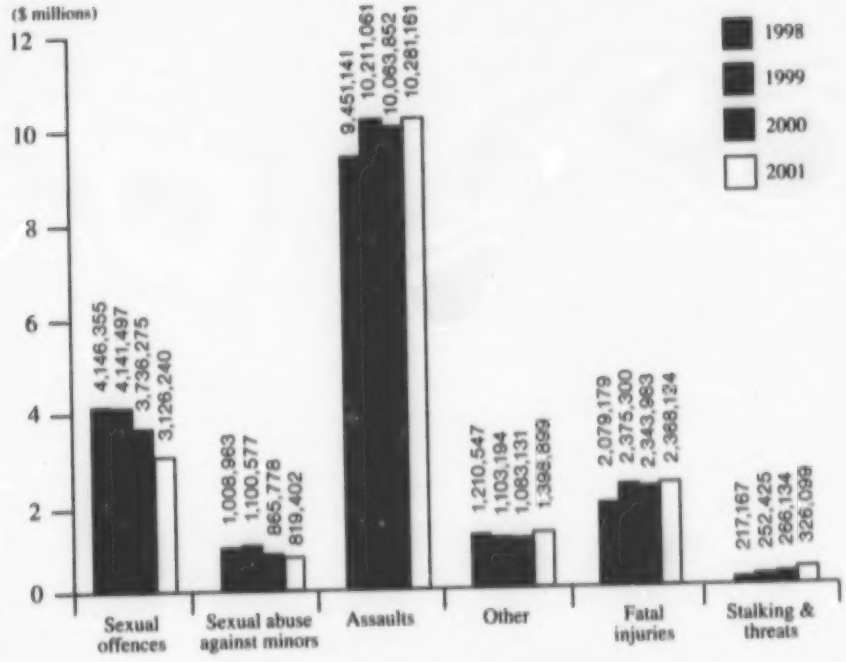
Awards paid by type of crime



Legal action allowed while claiming compensation

The *Criminal Injury Compensation Act* permits victims of crime to claim compensation and, at the same time, to sue the party who caused their injury.

An applicant must notify the CICP if legal action is taken, and if money is recovered from the person responsible for the injury. If an applicant recovers money from the responsible party, it must be used to reimburse the CICP. In some cases, the CICP may conduct legal action itself.

If a person is criminally injured on the job and receives both workers' compensation benefits and a criminal injury award for pain and suffering, the individual may lose entitlement to pursue legal action.

Review and appeal options

An applicant not satisfied with the outcome of a case can request a review, in which new information is presented or certain issues re-examined. The review process is more informal and flexible than the appeal process, and may involve a review of documents or an oral inquiry. The adjudicator who made the original decision will conduct the review or inquiry, and will prepare a supplementary decision that will uphold, modify, or reverse the original decision.

If the outcome of the review is still unsatisfactory to the applicant, an appeal is the next available course of action. It should be noted, however, that the review process is not a prerequisite, and that applicants may appeal to an Appeal Committee immediately after the initial decision on their case.

If the applicant is not satisfied after an Appeal Committee review, he or she may request a review from the Chief Appeal Commissioner of the WCB Appeal Division or ask the Appeal Committee to take the case to the Appeal Division.

If the Chief Appeal Commissioner or the Appeal Committee declines the applicant's request to review the case, or has reviewed the case and made a ruling, the appeal process ends.

An application form for criminal injury compensation can be obtained from any office of the Workers' Compensation Board of B.C., or by telephoning the Criminal Injury Compensation Program at 604 244-6400, toll-free in B.C. at 1 800 449-5331.

M121

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When the legislation establishing the CICP was passed in 1972, benefits were available to victims of 39 scheduled offences. Since then, 17 new offences have been added to the list, bringing the total to 56. The most recent additions include criminal harassment (stalking) and uttering threats, both added in 1995.

In that same year, compensation was extended to include non-dependent immediate family members of victims killed by criminal acts. This recognizes the hardship suffered by this group – usually parents – and their need for support. Because claims involving fatalities invariably involve more applicants than do non-fatal claims, this factor continues to impact the workload of the CICP.

- In 2001, total compensation of $18,319,925 was paid on 4,713 claims.
- 1,376 applications were denied, and 3,222 applications were accepted in 2001.

The CICP paid $13,780,186 in lump-sum payments and $4,539,739 in periodic payments in 2001. This compares with 2000, when $14,010,193 was paid in lump-sum payments and $4,348,960 was paid in periodic payments.

Criminal harassment: 69 claims were adjudicated and $209,072 paid in compensation in 2001. Of the applicants, 63 were female and six were male.

Uttering threats: 117 claims were adjudicated and $117,027 paid in compensation. Of the applicants, 84 were female and 33 were male.

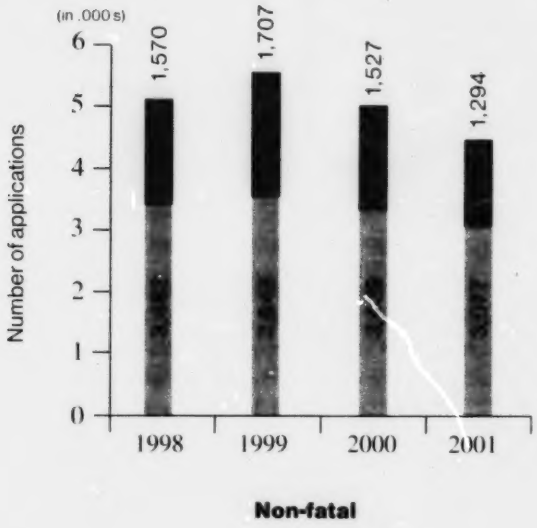
Sexual assault/sexual abuse: 1,288 claims were awarded compensation, totalling $3,945,642.

Domestic violence: 1,151 claims were adjudicated, totalling $3,148,707.

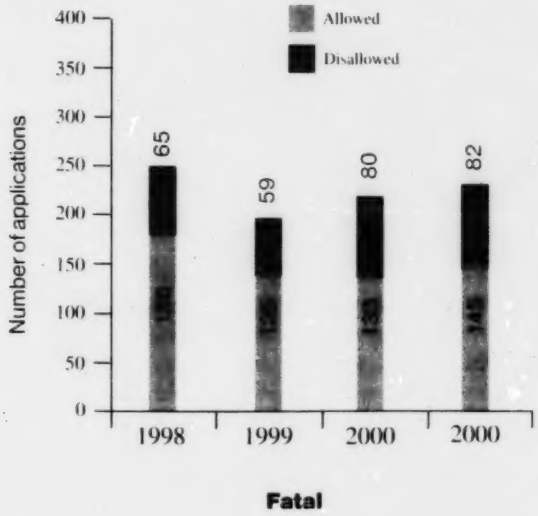
In 2001, the CICP paid $1,309,941 or 7.2 percent of its total compensation payments for counselling, compared with $1,753,318 or 9.6 percent in 2000.

In 2001, 243 applicants were awarded $474,485 in compensation for criminal injuries that were also workers' compensation claims.

Outcomes of applications adjudicated



Non-fatal



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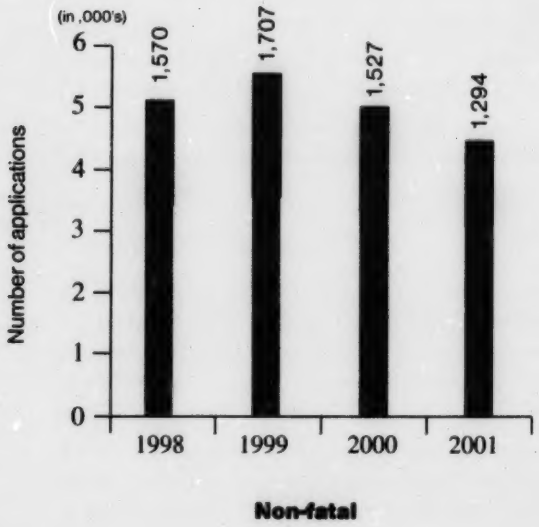

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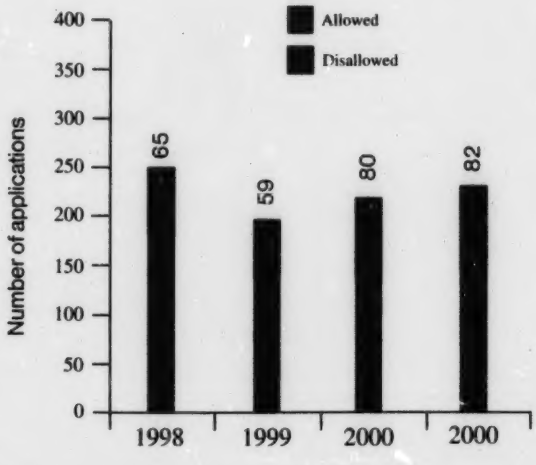


Fatal

Reviews and appeals

In 2001, there were approximately 2,090 reviews and 442 appeals.

A review is performed by the original adjudicator to provide the applicant an opportunity to present additional information and/or documentation. It may be a document review or an oral inquiry. One of three outcomes is possible for those applicants who participate in a review. The adjudicator will make a decision that that will either uphold, modify, or reverse the original one.

Most of the document reviews are on already accepted claims and result in a further award to the applicant. The review may also change the decision from a disallow to an allow and provide an award. Of the 1,974 document reviews in 2001, 73 percent resulted in favourable decisions for the applicants. This compares with 69 percent in 2000.

Of the 116 oral inquiries held in 2001, adjudicators modified or reversed decisions in 77 cases or 66 percent. In 2000, 180 oral inquiries were held, and adjudicators modified or reversed decisions in 99 cases or 55 percent.

If an applicant is dissatisfied with the outcome of a review or inquiry, an appeal is the next option. Note, however, that applicants may appeal to an Appeal Committee immediately after the initial decision on their case, without going through the review process.

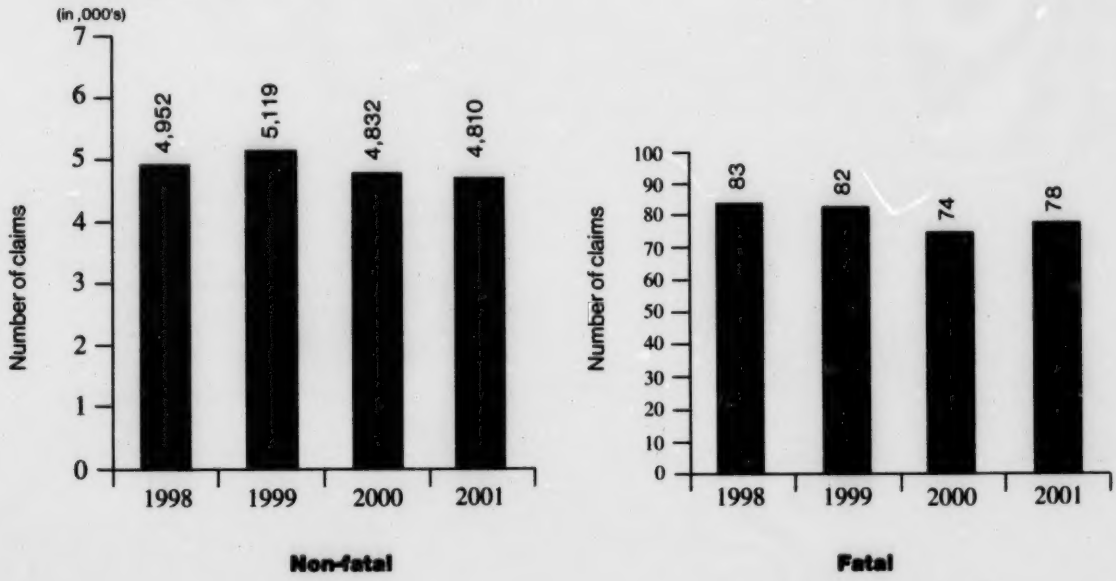
An Appeal Committee hearing may be held as an oral hearing, a review of documents, or both. If the Appeal Committee finds merit in the evidence, it may overturn the decision or request another review.

If still not satisfied, the applicant may request his or her application be considered by the Appeal Division of the WCB. If the request to hear the case is denied, the appeal process ends, subject to reconsideration by the Appeal Division, as provided by the *Criminal Injury Compensation Act*.

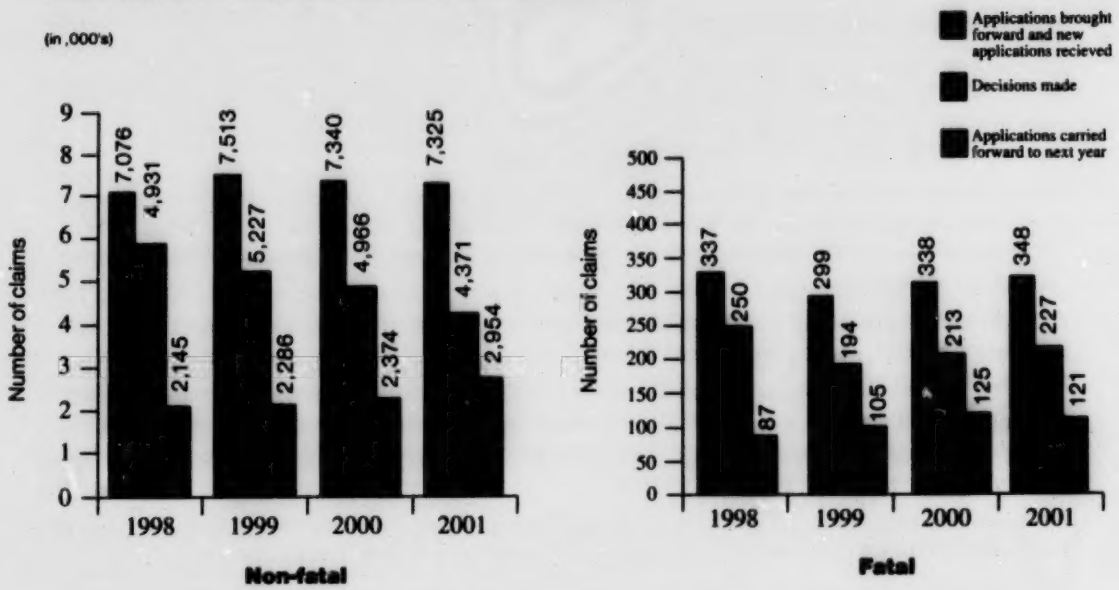
Of the 382 cases reviewed by Appeal Committees in 2001, 99 were allowed, 252 were denied, and 31 were withdrawn. This compares with 2000, when Appeal Committees reviewed 389 cases, allowing 115 and denying 249, and 25 cases were withdrawn.

Of the 60 cases considered by the Appeal Division in 2001, 18 were allowed and 42 were denied. In 2000, 91 cases were considered, with 23 allowed and 68 denied.

New claims received



New applications processed and carried forward



Compensation paid by type of crime, 1998 to 2001 (shown in $)

Crime	1998	1999	2000	2001
Abduction in contravention of custody order	0	6,032	0	0
Abduction of a person under 14 years of age	2,487	16,190	13,662	6,295
Abduction of a person under 16 years of age	–	–	–	1,500
Administering noxious things	10,415	3,710	8,860	5,310
Aggravated assault	443,011	368,799	435,858	688,873
Aggravated sexual assault	36,371	12,509	19,111	21,948
Arson	23,080	42,175	30,539	5,933
Assault	6,000,946	6,631,381	6,327,437	6,229,124
Assault with a weapon	1,432,994	1,556,445	1,649,927	1,756,985
Assaulting a peace officer	507	8,350	17,284	7,112
Assisting a peace officer	115,653	72,786	61,261	79,658
Attempted murder	1,448,504	1,516,125	1,491,102	1,438,329
Causing bodily harm by criminal negligence	242,563	240,488	188,275	381,112
Causing bodily harm with intent	125,179	129,961	142,244	160,738

Crime	1998	1999	2000	2001
Causing death by criminal negligence	39,156	46,806	46,726	43,984
Common nuisance causing harm	6,091	5,175	20,417	30,391
Counselling or aiding suicide	0	0	0	0
Criminal harassment (stalking)	92,170	105,294	112,936	209,072
Dangerous operation of vessel or towed object	42,756	44,031	45,570	45,657
Explosives where death or bodily harm results	0	0	725	17,542
Failure to provide necessaries	0	0	0	480
Impaired operation of vessel	4,373	1,482	0	0
Incest	66,902	29,804	60,550	34,600
Intentionally causing death or bodily harm by explosives	28,835	29,277	33,596	28,232
Interference with transportation facilities	–	–	–	500
Intimidation by violence	2,010	4,307	11,544	3,173
Invitation to sexual touching	28,333	44,828	21,538	23,080
Kidnapping	6,465	12,142	28,267	10,913
Manslaughter	153,732	233,769	205,961	177,616
Mischief causing danger to life	4,150	6,814	44,915	27,320
Murder	1,886,291	2,094,725	2,091,296	2,146,524
Overcoming resistance to commission of offence	4,287	0	900	0
Pointing a firearm or careless use of a firearm	158,570	178,978	157,612	229,609
Preventing a crime	8,500	4,000	15,882	16,639
Rape	27,970	22,074	19,383	17,946
Riots	0	3,610	0	0
Robbery	545,812	431,997	417,561	504,135
Sexual assault	3,960,554	4,006,568	3,592,420	3,016,814
Sexual assault with a weapon, threats to a third party	26,225	25,714	23,274	11,825
Sexual exploitation of a young person	77,742	130,785	87,310	97,382
Sexual touching of a person under 14 years of age	931,221	969,792	778,468	722,020
Taking offensive weapons and explosive substances	4,500	0	3,545	4,500
Uttering threats	124,997	147,131	153,198	117,027
Total	**18,113,352**	**19,184,054**	**18,359,153**	**18,319,925**

The Consolidated Revenue Fund of British Columbia, through the Ministry of Public Safety and Solicitor General, funds the Criminal Injury Compensation Program.

The CICP's management is responsible for the integrity of the financial statements, which are prepared in accordance with generally accepted accounting principles. Management has also established systems of internal control to ensure assets are properly accounted for and safeguarded from loss.

The Internal Audit and Evaluation Department of the WCB performs audits designed to test the adequacy and consistency of the CICP's internal controls, practices, and procedures.

Summary of actual expenditures for 1997 to 2001 (shown in $)

Claim costs	**1997**	**1998**	**1999**	**2000**	**2001**
Awards paid	19,815,645	18,113,352	19,184,054	18,359,153	18,319,925
Administration costs					
Salaries and payroll	2,613,488	2,526,070	2,386,474	2,524,776	2,498,686
Building service costs	404,960	390,156	361,697	327,659	396,180
Indirect service costs	497,832	531,432	531,432	531,432	531,432
Computer system development	153,054	209,702	224,114	482,424	257,422
Travel and investigations	627,238	578,139	616,352	574,272	617,866
Communications	59,383	53,068	39,499	63,819	62,126
Equipment	59,240	33,098	85,499	103,300	94,322
Supplies and stationery	20,470	19,023	18,584	15,390	16,498
Miscellaneous	113,038	102,019	64,455	103,937	89,754
Consulting fees	223,416	196,570	178,180	211,127	146,411
Appeal Committee hearings[1]	450,772	560,842	353,462	306,766	0
Appeal Division hearings	53,310	175,399	68,937	284,092	134,170
Miscellaneous recoveries[2]	(649,494)	(325,042)	(424,477)	(321,060)	(316,567)
Subtotal	4,626,707	5,050,476	4,504,208	5,207,934	4,528,300
Total expenditure	**24,442,352**	**23,163,828**	**23,688,262**	**23,567,087**	**22,848,225**

[1] *Appeal Committee costs are now included as part of other administrative costs (e.g., salaries).*

[2] *Miscellaneous recoveries include recoveries for parking and salaries of staff on secondment, and from legal action against offenders.*

Summary of 2001 expenditures

- Awards and expenses in 2001 totalled $22,848,225.
- Administration costs totalled $4,528,300 and awards totalled $18,319,925.

The CICP's administrative expenses include the costs of gathering information needed in adjudicating claims, such as police and medical reports. The staff oversee these administrative costs, along with award costs, by supervising payments, assessing charges, and monitoring expenses.

Compensation paid in 2001

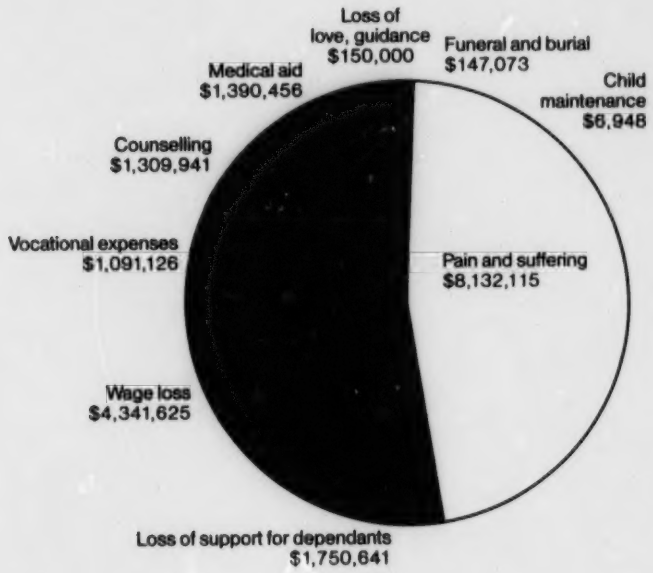
Of the $18,319,925 awarded in compensation, $8,132,115 or 44.4 percent was for pain and suffering awards, which continue to account for almost half of all compensation paid.

Assaults and sexual offences continue to make up a large part of compensation. In 2001, $10,281,161 was paid to assault victims, and $3,945,642 was paid to victims of sexual offences.

Awards for claims involving stalking and uttering threats rose from $266,134 in 2000 to $326,099 in 2001.

A total of $2,368,124 in compensation was paid to families of victims killed by criminal acts, compared with $2,343,983 in 2000.

Compensation paid in 2001 by type of award



Criminal Injury Compensation Program

www.criminalinjury.bc.ca

Office location
215 – 5200 Hollybridge Way
Richmond, B.C.

Mailing address
Criminal Injury Compensation Program
PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

Phone and fax
Phone 604 244-6400
1 800 449-5331
Fax 604 244-6480

Appeal Committee
Phone 604 244-6464
1 800 449-5331
Fax 604 244-6480

Workers' Compensation Board of B.C.

www.worksafebc.com

Head office location
6951 Westminster Highway
Richmond, B.C.

Mailing address
Workers' Compensation Board of B.C.
PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5

Phone numbers
604 273-2266
1 800 661-2112

Appeal Division
Phone 604 276-3067
1 800 661-2112
Fax 604 276-3349

WCB offices around B.C.

The WCB office in your area can supply copies of CICP application forms and brochures.

For more information

For additional copies of this report, or if you would like a copy of the brochure *Compensation for Victims of Crime*, contact:

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PO Box 5350 Stn Terminal
Vancouver BC V6B 5L5
Phone 604 244-6400
1 800 449-5331
Fax 604 244-6480
www.criminalinjury.bc.ca

or

Ministry of Public Safety and Solicitor General
PO Box 9282 Stn Prov Govt
Victoria BC V8W 9J7